



November 10, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: *Written Ex Parte Communication in CC Docket No. 98-147*

Dear Ms. Salas:

In ex parte presentations filed over the past two months, several data-only CLECs have claimed that line-sharing¹ can be instituted almost immediately on a "work-around" basis and within a few short months on a long-term basis. These same CLECs have suggested that, until ILECs and CLECs can re-negotiate interconnection agreements to incorporate line-sharing, ILECs should provide this capability on a surrogate basis at virtually no cost to the CLECs.

As GTE explained in its comments and reply comments, there is no legal or policy basis for the Commission to require spectrum unbundling.² If the Commission nonetheless decides to mandate spectrum unbundling, it must recognize that such a requirement cannot be implemented until several significant operational problems are resolved. It must also assure that ILECs have an opportunity to recover the considerable costs that a line-sharing obligation would engender. These matters are discussed below.

Line Sharing Would Require Large-Scale Changes to OSS Systems

GTE agrees with CLECs that spectrum unbundling in some cases (e.g., with respect to ADSL on qualifying loops) is technically feasible. It disagrees, however, with

¹ GTE uses the term "line-sharing" to mean that two unaffiliated companies are using the same line to provide different services simultaneously. It must be distinguished from GTE's current ADSL offering, which involves only a single company providing both voice and data services and therefore does not engender the complex coordination and service responsibility issues raised by line-sharing.

² GTE explained in its Comments that loop spectrum does not meet the definition of a network element in the 1996 Act and is therefore not subject to unbundling. Moreover, even if loop spectrum were a network element, it does not meet the necessary/impair standard of Section 251(d)(2). Comments of GTE, CC Docket No. 98-147 at 17-25 (filed June 15, 1999) ("GTE Comments"). GTE continues to hold this view, and its comments herein do not indicate a change in GTE's position.

their assertion that the operational problems associated with two different carriers sharing a line are subject to quick fixes. Rather, as GTE demonstrated in its Comments, major modifications would be needed to its OSS systems to provision line sharing orders and handle repair requests. Moreover, these changes would cause GTE to incur significant costs, which it would not bear but for the requirement to permit an unaffiliated carrier to provide advanced service on the same line used by GTE to provide voice service.

Timing of modifications. In an ex parte filed by several data-only CLECs, Dr. Dennis J. Austin states that "work-arounds" can be devised that would permit line-sharing to be implemented within a matter of weeks. He also asserts that the "minimal" OSS changes needed to accommodate line sharing could be implemented in 3 to 12 months.³ There is no factual basis for these claims.

With respect to the supposed "work-arounds," it is worth noting that Dr. Austin's approach is precisely the type of fix that CLECs argue provides inadequate opportunity to enter the market. For example, reliance on manual processing with a transition to electronic systems would require an extended period of time until appropriate industry standards are adopted and legacy systems are modified and would not support real-time ordering or repair functions.

In addition, even if truly desired by CLECs, the new manual processes and systems changes required on an interim basis could not possibly be accomplished in the brief period advocated by Dr. Austin. GTE estimates that the required training of its ordering, maintenance, and repair personnel, changes to manual forms, and development of new methods and procedures would take from six to nine months. Skimping on training and methods/procedures development would have a direct, adverse effect on customers because of the considerable risk of service degradation that GTE documented in its comments and reply comments. As just one example, the Commission must allow time for technicians to be properly trained to handle line sharing installation and repair; otherwise, there is a very real risk that neither the advanced service nor the basic phone service will work properly.

Timing also is impacted by the issues surrounding Y2K. To assure that its systems continue to function properly notwithstanding the date change, GTE has instituted a moratorium on any interim or permanent system changes or enhancements until February 1, 2000. Consequently, even interim system modifications (such as those required for MARK and AAIS) cannot begin until February 1, and they will take anywhere from six to nine months from that time to complete. Consistent with the Commission's own policy statement on Y2K compliance, any order mandating line sharing must take into account the changes required to systems and networks used by the ILECs and their Y2K requirements.⁴

Finally, longer-term system modifications to permit electronic ordering and seamless provisioning of line sharing will take anywhere from 12 to 24 months. The

³ Letter to Magalie Roman Salas, Secretary of the FCC, from Michael E. Olsen, NorthPoint, CC Docket No. 98-147, Statement of Dr. Dennis J. Austin at 4-5 (filed Sept. 30, 1999) ("Austin Statement").

⁴ "FCC Adopts Year 2000 Network Stabilization Policy Statement To Facilitate Y2K Compliance", News Release dated October 4, 1999.

scope of system changes occasioned by permitting an unaffiliated entity to provide service over the same line used for POTS is massive. (GTE's opening comments include a chart detailing the system changes required by line-sharing.) None of these changes is needed to permit GTE to provide ADSL and POTS over the same line, so contrary to Dr. Austin's implication, none of this work is under way.

Cost of modifications. Dr. Austin also unreasonably downplays the cost of modifying legacy OSS to accommodate line sharing. As GTE explained in its comments, that cost, for GTE alone, would total approximately five million dollars just for the assignment and inventory systems (MARK and AAIS, respectively).⁵ Substantial modifications to service fulfillment (NOCV), service assurance (TAS, ECPS Lite, CARE, AWAS, and 4-TEL), and billing systems would be required as well, at a cost that undoubtedly would be much higher than the five million dollars cited by Dr. Austin.⁶ Once again, it is worth emphasizing that these costs are incurred solely because the new service on the line is provided by a CLEC rather than the ILEC. Thus, as discussed in further detail below, before line sharing can be implemented, the issue of cost recovery for OSS modification will have to be addressed.

State Commissions Have Exclusive Authority over the Pricing of Line Sharing

Several CLECs ask the Commission to adopt specific pricing guidelines for line sharing to assist state commissions in establishing appropriate pricing.⁷ This is unnecessary. The Commission has already established pricing principles that apply to all unbundled network elements. See 47 C.F.R. §§ 51.503-.507.

In reality, the CLECs' request for "guidelines" plainly is intended to secure highly favorable – and entirely irrational – ceilings on the types of costs ILECs can recover in providing line sharing. Indeed, the guidelines sought by the CLECs seriously underestimate the costs that line sharing will cause. First, as noted above, the costs of modifying OSS will run well into the tens of millions of dollars. Second, some of the expedients sought by the CLECs simply cannot be pursued. For example, the suggestion that CLECs be allowed to install their own splitters is unacceptable from a network management perspective. GTE must control the splitters at the customer's premise and in the central office in order to engage in service monitoring, preventative maintenance, and trouble isolation for its POTS services. Permitting a CLEC to install and control the splitter would compel GTE to sacrifice its ability to assure the quality of its voice services.

⁵ GTE Comments at 28-29.

⁶ Austin Statement at 5. There is thus no basis for claims by NorthPoint and HarvardNet that "OSS costs associated with the implementation of line sharing likely will be *de minimis*." Letter to Lawrence E. Strickling, Chief, Common Carrier Bureau, from Michael E. Olsen, NorthPoint, and Melanie Haratunian, HarvardNet, CC Docket No. 98-147 at 4 (filed Oct. 8, 1999).

⁷ Letter to Lawrence E. Strickling, Chief, Common Carrier Bureau, from Michael E. Olsen, NorthPoint, and Melanie Haratunian, HarvardNet, CC Docket No. 98-147 at 1-5 (filed Oct. 22, 1999).

The pricing of line sharing should be handled no differently from the pricing of any other UNE (assuming for the sake of argument that unbundled spectrum is a UNE). The Act gives the states sole authority to establish UNE prices, based on the Commission's preferred pricing methodology. The Commission has interpreted the Section 252(d) pricing standards, and it will be up to the states to determine prices for line sharing, cross-connects, and associated equipment and capabilities in accordance with that methodology if the Commission in fact imposes a line-sharing obligation.

The Commission Lacks Authority To Order "Surrogate" Line Sharing

Some CLECs propose that the Commission order "surrogate" line sharing at reduced rates until actual line-sharing can be implemented and interconnection agreements can be negotiated.⁸ In particular, they suggest that ILECs should not be permitted to allocate any OSS costs to line sharing⁹ and should be permitted to charge only 10 percent of the voice grade UNE loop rate for separate loops provided to CLECs pending the availability of spectrum unbundling.¹⁰

These proposals must be rejected. First, requiring ILECs to accrue OSS modification costs until some unknown "future" true-up date could expose GTE and other carriers to a substantial risk of under-recovery. As noted above, GTE will incur millions of dollars in OSS-related costs occasioned solely by the need to provide unbundled spectrum to CLECs. GTE has an unquestionable right under the Act to recover these costs from the CLECs that cause them to be incurred. The statute does not require GTE to wait for compensation.

Likewise, when a CLEC buys an entire unbundled loop, it must pay the full costs of that loop. The fact that the CLEC chooses not to offer the same range of services as the ILEC cannot be used to force the ILEC to subsidize the CLEC's market entry; any shortfall between the CLEC's revenues and the ILEC's costs is due solely to the CLEC's voluntary business decision to ignore the voice marketplace.

Second, because the interim processes needed to implement line-sharing will take at least six to nine months, there is no basis for an interim spectrum unbundling requirement pending amendment of interconnection agreements. The amendment process can occur simultaneously with the necessary training programs and methods and procedures development, so that there is no undue delay in the provisioning of line sharing if such a requirement is imposed. In the interim, CLECs wishing to concentrate on data services can continue to pursue the phenomenally successful market entry strategies they have undertaken to date.

⁸ Letter to Lawrence E. Strickling, Chief, Common Carrier Bureau, from Michael E. Olsen, NorthPoint, and Melanie Haratunian, HarvardNet, CC Docket No. 98-147 at 6 (filed Oct. 8, 1999).

⁹ Letter to Lawrence E. Strickling, Chief, Common Carrier Bureau, from Michael E. Olsen, NorthPoint, and Melanie Haratunian, HarvardNet, CC Docket No. 98-147 at 7-9 (filed Oct. 8, 1999).

¹⁰ Letter to Magalie Roman Salas, Secretary of the FCC, from Florence M. Grasso, Covad, CC Docket No. 98-147 at 2-4 (filed Oct. 5, 1999).

Third, the Commission's authority to order surrogate line-sharing requirement is questionable. The Act, in Section 252, establishes a state-managed process for negotiating interconnection agreements. An FCC mandate to provide line-sharing through surrogate charges would short-circuit the Act's requirements and improperly seize oversight authority from the states.

Conclusion

The Commission must recognize that line-sharing would engender significant operational problems and costs, which arise only when the same line is used by two different carriers. If the Commission imposes a line-sharing requirement, it must assure that the industry has time to implement it properly. Specifically, any obligation to unbundle loop spectrum on an interim basis should attach no sooner than six to nine months after February 1, 2000 (the date on which GTE's Y2K system moratorium will be lifted). In addition, the Commission should emphasize that ILECs are entitled to recover the costs of providing line-sharing to CLECs (including systems development and modification costs), as expressly provided in Section 252(d) of the Act. Finally, the Commission should recognize that the process of implementing long-term system changes sufficient to permit electronic interactions between CLECs and ILECs with respect to line sharing will take at least 12 to 24 months.

If you have any questions regarding this matter, please call me at (202) 463-5293.

Sincerely,



W. Scott Randolph
Director - Regulatory Matters

cc: Robert Atkinson
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